

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of:)

Inmarsat Group Holdings Ltd.)

Certification and Petition for Declaratory)
Ruling Pursuant to Section 621(5)(F) of the)
ORBIT Act)

IB Docket No. 04-439

RECEIVED

FEB 24 2005

Federal Communications Commission
Office of Secretary
DOCKET FILE COPY ORIGINAL

**MOTION TO STRIKE
OR IN THE ALTERNATIVE
RESPONSE TO REPLY COMMENTS**

Inmarsat Group Holdings Ltd. ("Inmarsat") hereby files this Motion to Strike or in the alternative Response to the Reply Comments of Iridium Satellite, LLC ("Iridium").¹ The gravamen of Iridium's comments is its assertion that the Commission should, in the course of determining Inmarsat's compliance with Section 621(5)(F) of the ORBIT Act, institute a new technical standard for out-of-band emissions in the 1.6 GHz band. These allegations are procedurally barred and substantively lacking in merit, and as such they should be dismissed without further consideration.

As an initial matter, Iridium's "reply" comments are procedurally barred. Iridium does not reply to anything in Inmarsat's initial Petition for Declaratory Ruling (the "Petition"), or in the pleadings filed in response to that Petition. Instead, Iridium seeks to raise an entirely new matter on reply that is nowhere else put at issue in this proceeding. Iridium's comments should therefore be stricken from the record.²

¹ Reply Comments of Iridium Satellite, LLC in IB Dkt. No. 04-439 (filed Feb. 4, 2005) ("Iridium Comments").

² Cf. 47 CFR § 1.45(c) ("the reply shall be limited to matters raised in the oppositions").

014

Even if Iridium had properly raised this issue before, the substance of the issue is outside the scope of this proceeding. Iridium recognizes that the Commission's MSS service rules contain various technical conditions and that those rules do not address the technical limits that Iridium posits here.³ Indeed, the debate at the ITU over out-of-band emissions in the 1.6 GHz band is far from resolved. As Iridium recognizes, there are discussions ongoing in ITU-R Working Party 8D regarding out-of-band emissions at 1.6 GHz, in which data has been presented showing that Iridium's desired limits are too stringent. Thus, it is far from clear whether Iridium's desired out-of-band emissions limits are appropriate. The Commission should not consider Iridium's proposed limits until Working Party 8D completes its work. Even once that occurs, the proper venue for the Commission to consider changes to its MSS service rules, including out-of-band emissions in the 1.6 GHz band, is in a prospective notice-and-comment rulemaking.

In any event, the instant proceeding deals solely with the question of whether Inmarsat's privatization complies with the requirements of the ORBIT Act. ORBIT does not even *permit* the FCC to consider Iridium's proposed emissions criteria in the instant adjudication. ORBIT sets forth a number of specific requirements that relate to the privatization of Inmarsat. None of those requirements implicates in any way emissions levels or other technical operational requirements with which Inmarsat must comply. There is no statutory support for Iridium's attempt to parlay Inmarsat's ORBIT certification into a regulatory "Christmas tree."

In sum, Iridium's attempt to gain new technical standards in the context of this proceeding is misplaced. It is, so to speak, the wrong issue, at the wrong time. The Commission

³ Iridium Comments at 2.

should dismiss Iridium's reply comments, and should grant Inmarsat's Petition without further delay.

Respectfully submitted,

INMARSAT GROUP HOLDINGS
LTD.

A handwritten signature in black ink, appearing to read 'J. Janka', written over a horizontal line.

By: John P. Janka
William S. Carnell
Latham & Watkins LLP
555 11th Street, N.W., Suite 1000
Washington, D.C. 20004

February 24, 2005

CERTIFICATE OF SERVICE

I, William S. Carnell, hereby certify that on this 24th day of February 2005, served a true copy of the foregoing Motion to Strike or in the Alternative Response to Reply Comments via first class United States mail, postage prepaid, upon the following:

Bruce D. Jacobs
David S. Koneczal
Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128

Donna Bethea-Murphy
Iridium Satellite, LLC
6701 Democracy Blvd
Bethesda, MD 20817

Randy Segal
Lon C. Levin
Mobile Satellite Ventures Subsidiary LLC
10802 Parkridge Boulevard
Reston, VA 20191

Gerald Musarra
Lockheed Corporation
Crystal Square 2, Suite 300
1550 Crystal Drive
Arlington, VA 22202



William S. Carnell